

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6085 of 1999

with

SPECIAL CIVIL APPLICATION NO. 6088 OF 199

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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MESSERS SANGHANI BRIGHT STEEL MANUFACTURERS

Versus

UNION OF INDIA  
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Appearance:

MR PARESH M DAVE for Petitioners  
MR PB MAJMUDAR for Respondent No. 1  
MR MUKESH R SHAH for Respondent No. 2, 3  
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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE C.K.BUCH

Date of decision: 17/08/1999

ORAL JUDGEMENT

These petitions are filed against the order dated 9.4.1999 passed by the appellate authority dismissing the appeals on the ground that requirement relating to predeposit of amount had not been complied with as directed by the appellate authority..

Our attention was invited by the learned counsel for the

petitioners to a judgment and order passed by this Court in Special Civil Applications Nos. 2342 and 2357 of 1999 on 5.4.1999 by which the petitions filed by the petitioners came to be allowed and the appellate authority was directed to decide the matters afresh. It was submitted by the learned counsel for the respondents that there was some communication gap and in these circumstances, even though order passed by the appellate authority on stay applications was set aside and the matters were remanded for fresh disposal in accordance with law, since the order passed by this Court was not communicated to him, he had passed the above order on 9.4.1999.

In the facts and circumstances, in our opinion, it would be in the interest of justice if, without making any observation on merits, petitions are allowed and orders dated 9.4.1999 are set aside. Accordingly, in both the matters, the orders impugned in the petitions passed on 9.4.1999 are set aside and the matters are remanded to the appellate authority so as to enable him to decide the same on merits. We may clarify that since the orders dismissing the appeals are set aside, obviously, the original position will be restored and the appellate authority will now decide the applications for stay on their own merits as directed in the earlier order in Special Civil Applications Nos. 2342 and 2357 of 1999. There will be no coercive recovery till applications for stay are decided.

Rule made absolute to the aforesaid extent. No order as to costs.

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parekh